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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,425	05/24/2001	Andrew J. Vilcauskas JR.	EXIT:POST1	5992
152 7590 11/02/2007 CHERNOFF, VILHAUER, MCCLUNG & STENZEL 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204-3157			EXAMINER WASSUM, LUKE S	
			ART UNIT 2167	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	09/866,425	VILCAUSKAS ET AL.	
	Examiner	Art Unit	
	Luke S. Wassum	2167	

All participants (applicant, applicant's representative, PTO personnel):

(1) Luke S. Wassum. (3) _____.

(2) Kurt Rohlf's (503) 227-5631. (4) _____.

Date of Interview: 22 Aug-12 Oct 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 21, 31 and 41.

Identification of prior art discussed: Werkhoven (WIPO Publication WO/1999/59097).

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

A series of interviews were conducted over the course of six weeks between the examiner and the attorney. The interviews consisted of negotiation of claim language for independent claims 21, 31 and 41, and were usually followed by a period of time where the proposed claim language was presented to the applicants.

The examiner initially contacted the attorney to propose additional claim language to clarify the conditions under which the background window would be moved to the foreground. At that point, the attorney had already submitted a supplemental amendment which added the following language to the independent claims:

"...said event handler free from causing said second browser in said background window to be automatically displayed as a foreground window replacing said first browser as said foreground window while said first browser and said second browser are both free from being closed, and wherein said second browser is a foreground window upon the occurrence of a user-initiated action made after said second browser is opened in said background window."

After receiving and considering the supplemental amendment, the examiner once again contacted the attorney, concerned that the amendment failed to preclude the situation where the foreground window was closed (and so the background window was moved to the foreground by default), a situation that the Werkhoven reference would anticipate. The examiner proposed the following claim language: "...wherein said event handler displays said second browser as the foreground window upon a user-initiated action, while said first browser remains instantiated but no longer displayed as the foreground window."

After consultation with the client, the attorney relayed the clients' desire to cover the circumstance where a new browser is loaded into a background window, an ad is loaded into it, and then it is left in the background indefinitely so that it is only viewed after the user manually closes the first, foreground window. The client also wanted the claim to read on the situation where the ad gets pushed to the foreground when the user manually moves to a new web page.

The clients' view was that neither of these techniques were disclosed by the prior art being cited, which instead includes code that immediately shoves the advertisement to the foreground once the advertisement has fully loaded. They believed that the Werkhoven reference relies on that code being there because a number of advertisements are to be serially displayed in the second browser where a timer controls the ad window's movement between the foreground and background, i.e. without code automatically pushing the ad to the foreground you can't serially present a number of advertisements to a user visiting a web site, within the same browser window, as Werkhoven teaches.

As a result, the attorney presented the following proposed claim language: "...an event handler that receives, from an Internet address, a link to an advertisement and loads said advertisement into said second browser while said second browser is in a said background window, said event handler maintaining said second browser in said background until the occurrence of a user-initiated action made after said second browser is opened in said background window, said event handler being free from instructions capable of automatically, without user interaction, causing said second browser in said background window to replace said first browser as said foreground window such that said first browser is then maintained in a background window at least partially behind said second browser, during a time interval beginning incrementally before said advertisement has completely finished loading in said second browser and ending at a time incrementally after a user action navigates said first browser to a different web site than that loaded in said first browser when said event handler received said advertisement."

Their view was that this claim language did not read on Werkhoven because that reference teaches code that includes "instructions capable of automatically, without user interaction, causing said second browser in said background window to replace said first browser as said foreground window such that said first browser is then maintained in a background window at least partially behind said second browser" immediately after the ad has fully loaded, where the claim requires that the browser be "free from" those instructions during that time interval.

The examiner agreed with the attorney, and agreed to introduce the proposed claim language in an examiner's amendment.

Shortly thereafter, the examiner identified problems with independent claims 21 and 41, in that the claims were directed to a system, but included no hardware limitations, resulting in non-statutory claims under 35 USC 101. The examiner contacted the attorney and proposed limitations be added to the claims to include a hardware limitation. After exchanging proposed language, the examiner and attorney (and applicants) agreed on the language which was included as part of the examiner's amendment.